



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,111	08/07/2001	Michael A. Gaul	A-7172	9737

5642 7590 12/13/2006

SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

EXAMINER

JONES III, CLYDE H

ART UNIT PAPER NUMBER

2623

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/924,111

Applicant(s)

GAUL ET AL.

Examiner

Clyde H. Jones III

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER

Regarding claim 1 the applicant's addition of the limitation "a first user input requesting a change in the IPG channel listing characteristic" changes the scope of the claim requiring further search and consideration.

Regarding claim 6 the applicant's addition of the limitation "a first user input requesting a change in the IPG time listing characteristic" changes the scope of the claim requiring further search and consideration.

Regarding claim 17, addition of the limitation "the IPG configuration data is used to determine the IPG channel listing characteristic" changes the scope of the claim requiring further search and consideration.

Regarding claim 26, addition of the limitation "the IPG configuration data is used to determine the IPG time listing characteristic" changes the scope of the claim requiring further search and consideration.

Regarding claim 30 (and 43), it is written as a Markush type claim written in an "at least one" type format e.g., "the channel listing characteristic is at least one of the following: number of channels presented concurrently or identity of channels presented". Therefore the examiner needs to meet only one of the two, i.e., either number of channels presented concurrently or identity of channels presented. See MPEP section 803.02. Regarding the applicants argument that Kamen fails to teach or suggest "at least where the channel listing characteristic is at least one of the following: number of channels presented concurrently or identity of channels" [Remarks, page 17, lines 15-20] and more specifically that Kamen fails to disclose "identifying the program displayed" [Remarks, page 18, lines 22-23], the examiner respectfully disagrees because in fig. 2 Kamen teaches that users can control the identity of the channels displayed by inputting a request to change the characteristic/mode of the identified channels/programs displayed by the IPG (col. 5, lines 9-12, 18-20; see fig. 2 in which the listing's identity/category/type 104 is displayed including the corresponding program names 111,121 and corresponding channel identities 110,120). Therefore Kamen teaches the channel listing characteristic is "at least" the identity of channels presented. The applicant's arguments are not persuasive.

Regarding claim 39 (and 51), it is written as a Markush type claim written in an "at least one" type format e.g., "the time listing characteristic is at least one of the following: number of time listings presented concurrently, coverage of a time listing, or identity of time listings presented". Therefore the examiner needs to meet only one of the three, i.e., either number of time listings presented concurrently, coverage of a time listing, or identity of time listings presented. See MPEP section 803.02. Regarding the applicants argument that Kamen fails to teach or suggest a screen configuration characteristic of identity of time listings presented [Remarks page 20, lines 10-14] the examiner respectfully disagrees because Kamen teaches that users can control the identity (color, type/category/ font size, etc.; col. 13, lines 25-28; col. 7, lines 20-27; col. 5, lines 9-13) of time listings 111,121 -fig. 2,2C displayed by inputting a request to change the characteristic/mode of the identified channels/programs displayed by the IPG (col. 5, lines 18-20; col. 7, line 24-25; col. 13, lines 26-27,33-35;44-46). Therefore Kamen teaches the channel listing characteristic is "at least" the identity of time listings presented. The applicant's arguments are not persuasive.

Regarding claims 15 and 16, the applicant argues "because independent claim 1 is allowable over the cited references of record, dependent claims 15 and 16 (which depend from independent claim 1) are allowable" [Remarks, page 24, lines 15-27] however the applicant has changed the scope of claim 1 (and thus 15 and 16 too) thus requiring further search and consideration as discussed above.